



## SENIOR SAFETY ZONE LEGISLATION

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### ISSUE

Have any states considered or enacted "senior safety zone" legislation?

### SUMMARY

Many states have laws restricting where registered sex offenders can visit or live. The most common type of restriction prohibits them from residing, and sometimes working or loitering, within a certain distance of areas where children typically congregate (called "child safety zones").

In recent years, some state and local governments have also considered establishing "senior safety zones," which create similar sex offender-free zones in areas where seniors typically congregate, such as senior centers and congregate housing facilities.

We found three states (Connecticut, Florida, and Massachusetts) that have considered this issue through state legislation or local ordinance. Connecticut has considered senior safety zone legislation every year since 2011. Massachusetts is the only state we found that enacted such legislation. Specifically, Massachusetts law prohibits a Level 3 sex offender (e.g., the highest risk of re-offense and public danger) from living in, moving to, or transferring to specified elderly housing facilities. However, in 2011, the Supreme Judicial Court of Massachusetts ruled that the law violated due process and was unconstitutional when applied to a Level 3 sex offender who had an existing placement in a senior housing facility at the time the law was enacted.

Additionally, local governments in all three states have enacted senior safety zone ordinances that restrict where sex offenders can live or visit. For example, Hillsborough County, Florida (1) prohibits convicted sex offenders from living within 1,000 feet of designated senior communities, (2) requires offenders who were living in long-term care facilities when the ordinance was adopted to disclose their status to the facility's management, and (3) requires such managers to take precautions

to alert other residents of potential danger from those sex offenders already living in or near these facilities who are grandfathered in. As another example, in 2012, Montville, Connecticut enacted an ordinance prohibiting convicted sex offenders from entering specified areas where seniors congregate. However, the town rescinded the ordinance in 2013 after opponents raised concerns that it was unenforceable and unconstitutional.

## **CONNECTICUT**

### ***State Legislation***

The legislature has considered senior safety zone legislation every session since 2011. Most recently, in 2014, the legislature considered [SB 178](#). As originally raised, the bill would have prohibited registered sex offenders from entering senior centers, elderly housing, or elderly congregate facilities, unless they were (1) visiting a relative living there or (2) providing services required by their employment. It also allowed registered sex offenders to enter a senior housing center to participate in activities not sponsored or organized by the center, such as voting in an election. The bill did not apply to sex offenders living in any of these facilities.

The Aging Committee favorably reported a substitute bill, which the legislature enacted as [Special Act 14-20](#). The act created a 10-member task force to study the creation of senior safety zones, including (1) best practices, (2) legal considerations, (3) data on the percentage of sex offenders whose victims are seniors, and (4) the most effective ways of identifying and limiting the movement of sex offenders without affecting their constitutional rights. The task force submitted its [final report](#) to the Aging and Judiciary committees on January 1, 2015.

### ***Local Ordinance***

In 2012, the town of Montville adopted, but later rescinded, an [ordinance](#) establishing senior safety zones. Specifically, it prohibited convicted sex offenders from entering any town-owned or -leased park, senior center, senior bus, elderly community, elderly housing, elderly event, elderly function, or other facility where seniors congregate. The ordinance provided exemptions to the prohibition similar to those in SB 141 listed above.

In 2013, the town rescinded the ordinance after opponents, including the Connecticut chapter of the American Civil Liberties Union, raised concerns that it was unenforceable and unconstitutional.

## **FLORIDA**

### ***Local Ordinance***

In 2007, Hillsborough County adopted a "Sexual Predatory Senior Protection Ordinance" that prohibits convicted sex offenders from living within 1,000 feet of designated senior communities ([Ord. No. 07-12](#)). Sex offenders living in nursing homes and long-term care facilities are required to disclose their status to the facility's management. The ordinance grandfathers in those sex offenders already living in or near a "senior safety zone," but requires long-term care facility management to take precautions to alert other residents of potential danger. Individuals who violate the ordinance are subject to a fine of up to \$500, up to 60 days in jail, or both.

## **MASSACHUSETTS**

### ***State Legislation***

In 2006, the Massachusetts legislature enacted legislation prohibiting a Level 3 sex offender from "knowingly and willingly" living in, moving to, or transferring to a nursing home, rest home, town-maintained infirmary, charitable home for the aged, or intermediate care facility for the mentally retarded. Violators of the law are subject to the following penalties:

1. First conviction: up to 30 days imprisonment in a jail or house of correction;
2. Second conviction: (a) up to two and one-half years imprisonment in a jail or house of correction, (b) up to five years imprisonment in a state prison; (c) a fine of up to \$1,000; or (d) both imprisonment and a fine; and
3. Third and subsequent convictions: at least five years imprisonment in a state prison, provided that the imposed sentence is not reduced to less than five years, nor suspended ([M.G.L. Chapter 6, § 178E](#)).

In 2011, the Supreme Judicial Court of Massachusetts ruled that the law violated due process and was unconstitutional when applied to a Level 3 sex offender who had an existing placement in a senior housing facility at the time the law was enacted. The court determined that the law infringed on a sex offender's protected liberty and property interests by failing to provide for an individualized determination that the public safety benefits requiring the individual to leave the senior housing facility outweighed the risks to the sex offender of such a removal (*Doe v. Police Commissioner of Boston* 951 N.E.2d 337, 460 Mass. 342(2011)).

## **Local Ordinance**

In addition to state legislation, some towns (Ayer, Malden, Mansfield, Marlborough, Quincy, Rockland, and Shirley) have addressed this issue through local ordinance. For example, Mansfield prohibits convicted registered sex offenders from entering any park, recreational facility, elderly housing facility, over-55 community, or senior citizen center. Marlborough, Shirley, and Rockland prohibit registered sex offenders from living within 1,000 feet of elderly housing and certain recreational facilities. Malden prohibits registered sex offenders from entering an elderly housing or recreational facility without the administrator's prior written authorization. It also prohibits loitering within 500 feet of these locations.

In 2012, a married Level 3 sex offender in Ayer challenged the town's bylaw, which prohibits Level 2 and Level 3 sex offenders from living or loitering in areas where large numbers of children or seniors congregate. The sex offender filed a civil lawsuit against the town and its police chief seeking to overturn the bylaw as unconstitutional. In a December 19, 2012 decision, a Massachusetts district court allowed the sex offender and his wife to immediately move to a property owned by the sex offender's in-laws in a restricted area. The court did not address the bylaw's constitutionality, but found that the sex offender registered with the town before the bylaw took effect, exempting him from the bylaw's residency restrictions (*King v. Town of Ayer*, No.1:12-CV-11777-WGY, Mass Dist.Ct., Dec. 19, 2012).

## **RESOURCES**

Connecticut General Assembly, SA 14-20, An Act Concerning Senior Safety Zones: [http://www.cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=Special+Act&which\\_year=2014&bill\\_num=20](http://www.cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=Special+Act&which_year=2014&bill_num=20), last visited on January 28, 2015.

Connecticut General Assembly, SB 14-78, An Act Concerning Senior Safety Zones: [http://www.cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=Bill&bill\\_num=178&which\\_year=2014](http://www.cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=Bill&bill_num=178&which_year=2014), last visited on January 28, 2015.

Connecticut General Assembly, "Report of the Senior Safety Zone Task Force," January 1, 2015: <http://www.cga.ct.gov/coa/pdfs/publications/2015/Senior%20Safety%20Zone%20FINAL%20REPORT.pdf> , last visited on January 28, 2015.

Hillsborough County, Florida Senior Safety Zone website: <http://www.hillsboroughcounty.org/index.aspx?NID=1252>, last visited on January 28, 2015.

Massachusetts General Laws, Chapter 6, Section 178:

<https://malegislature.gov/Laws/SessionLaws/Acts/2006/Chapter303>, last visited on January 28, 2015.

Montville, Connecticut Senior Safety Zone Ordinance, October 10, 2012:

[http://www.google.com/url?sa=t&rct=j&q=&esrc=s&frm=1&source=web&cd=2&ved=0CEEQFjAB&url=http%3A%2F%2Fwww.townofmontville.org%2FFormRepository%2FprocessDownload.asp%3FID%3D4849&ei=9A\\_VJTrNM2cyASiwIGYDA&usg=AFQjCNH27A7n70mTLCAfv506qoSQIsqRsg](http://www.google.com/url?sa=t&rct=j&q=&esrc=s&frm=1&source=web&cd=2&ved=0CEEQFjAB&url=http%3A%2F%2Fwww.townofmontville.org%2FFormRepository%2FprocessDownload.asp%3FID%3D4849&ei=9A_VJTrNM2cyASiwIGYDA&usg=AFQjCNH27A7n70mTLCAfv506qoSQIsqRsg), last visited on January 28, 2015.

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